

TITLE 19

ORDINANCE OF THE HOOPA VALLEY TRIBE
HOOPA INDIAN RESERVATION
HOOPA, CALIFORNIA

ORDINANCE NO: 2-89

DATE APPROVED: OCTOBER 18, 1989

SUBJECT: BUDGET ORDINANCE OF THE HOOPA VALLEY TRIBE
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WHEREAS: The Hoopa Valley Tribe did on June 20, 1972 adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1© of this Constitution and Bylaws authorized the Hoopa Valley Business Council, "To collect and expend any Hoopa Valley Tribal funds within the exclusive control of the tribe and to recommend the expenditure of any other tribal funds.", and

WHEREAS: The Hoopa Valley Business Council has deemed it necessary to establish this Tribal Budget Ordinance to ensure fiscal accountability by the Council and its programs, projects and entities, and

WHEREAS: This ordinance shall govern any and all funds under the control of the Hoopa Valley Tribe, its Business Council and all of its programs, projects and entities, as well as any and all funds controlled by any official or employee of the Tribe, if such funds are subject to his/her employment with the Tribe. These funds shall be deemed to be "within the exclusive control of the tribe" under Article IX, Section 1 © of the Constitution and Bylaws, and

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Business Council hereby enacts the Tribal Budget Ordinance as Ordinance No. 2-89, and such Ordinance shall have full force and effect.

Section 1 – Purpose

The purpose of this Ordinance is to control the use and expenditure of any and all Hoopa Valley Indian funds; including but not limited to: funds generated from tribal businesses and assets, and funds derived from contracts, grants, and gifts from outside governments and entities. Thus, the Council, all tribal programs and entities, all tribal officials and all employees of the tribe, its programs and its entities are prohibited from expending funds except as authorized under this Ordinance.

Section 2 – Establishment of Fiscal Year Revenues

2.1 Identification of Tribal Revenues

No later than May 15 of each year all tribal programs and entities shall provide a written report to the Chief Fiscal Officer which identifies any and all revenues, including reserves and certificates of deposit, that expect to receive during the next fiscal year. The Tribal Chairman shall be responsible for ensuring that this requirement is carried out.

2.2 Identification of Grants, Contracts, Miscellaneous Funds

No later than May 15 of each year, each tribal program and entity shall provide a written report to the Chief Fiscal Officer detailing any and all grants, contracts, or any other miscellaneous funds that it expects to receive during the next fiscal year. The use of any funds identified under this subsection shall be detailed in the Budget Authority Resolution under Section 3. No grant, contract or miscellaneous funds may be expended unless they have been identified, and their use designated and approved in the Budget Authority Resolution or any amendments thereto. The use of tribal funds for grant matching funds is not permitted unless such tribal funds have been identified in the Budget Authority Resolution.

2.3 Tribal Reserve Funds

The Tribal Council may, by appropriate action, establish special reserves that are exempt from this Ordinance, if and only if it has formally enacted fiscal controls for such reserves. Such controls shall at a minimum require that expenditure or commitment of such reserves can be undertaken only by formal action of at least three-fourths (3/4) affirmative vote of the Tribal Council at a duly called and recorded meeting.

Section 3 – Establishment of Budget Authority

3.1 Establishment by Tribal Resolution

At its first regular meeting in June, the Tribal Council shall review all materials submitted under Section 2, and formally adopt a resolution setting out the total authorized tribal budget expenditure. This resolution shall specifically designate the source of the funds for each authorized activity. The budget authority for the next fiscal year does not become valid until the funding for it has been specifically identified. If the fiscal year budget authorizes an activity but fails to identify its funding source the Council's actions are deemed to be null and void and the Tribal Chairman and Chief Fiscal Officer are expressly prohibited from preparing any budgets for such amounts. The Resolution enacted under this section shall be call the Budget Authority Resolution.

3.2 Permanent Fiscal Year Budget Package

Once enacted, the Budget Authority Resolution shall become a permanent part of the Tribe's budget and budget justification package. The Council, Tribal Chairman, Chief Fiscal Officer and program managers and directors are responsible for ensuring strict compliance with the Budget Authority Resolution.

3.3 Funds, Contracts, Grants Not Identified

Only those funds, contracts and grants which are properly identified in the Budget Authority Resolution are authorized for expenditure.. Thus, the use of any funds not included in the resolution is prohibited. If funding opportunities become available after the Budget Authority Resolution is adopted, the Tribal Council may, prior to submission of a proposal or application, amend the Resolution to include said funding, provided, however, that if matching funds are required the Council shall identify the source of such funds. Any such amendments shall designate the name of the program applied to, the amount of money requested and the program or entity which will be responsible for such funding if it is received. If any program submits an application for funding that is not in compliance with this Ordinance, the Council shall have the authority to refuse to accept any or all of the funds received, or to change their use to the extent allowed by law, the Council may also use any funds received as an off-set to the tribal budget and may withdraw any tribal funds from that program as it deems necessary. All amendments provided herein shall be governed under Section 7 of this Ordinance.

Section 4 – Development of Tribal Budget

4.1 Chairman's Budget Recommendations

Based on the information contained in the Budget Authority Resolution, the Tribal Chairman shall prepare and submit to the Tribal Council, before the first regular meeting in July, a proposed fiscal year budget. The total amount of this proposed budget shall not exceed the amount established in the Budget Authority Resolution and the budget itself shall contain recommendations for use of all grants, contracts, an other funds identified in the Budget Authority Resolution.

4.2 Tribal Council Review / Adoption of Proposed Budget

After reviewing the Chairman's budget recommendations the Council shall make any changes that it deems appropriate, provided that those changes are consistent with the Budget Authority Resolution. No later than the second regular meeting in July, the Council shall formally adopt a proposed budget for the coming fiscal year. At the meeting, the Council shall schedule a budget review hearing to allow input on the proposed budget from the public and tribal managers. Prior to this hearing date the Council shall make the proposed budget, including the Budget Authority Resolution, identification of grants, contracts and other funds, and any budget justification documents available for public review. This information is to be made a part of the official record of the budget hearing. The budget hearing shall be held in accordance with the Tribe's hearing procedures.

Section 5 – Adoption of Tribal Budget

5.1 Changes To The Proposed Budget

After review of the public comments, the Tribal Council shall, no later than the second regular meeting in August, make any necessary changes to the proposed budget and Budget Authority Resolution. After all necessary changes, if any, are made, the Council shall adopt the fiscal year budget package by official resolution.

5.2 Final Budget Preparation

Once the Council has formally adopted the fiscal year budget package, the Tribal Chairman and Chief Fiscal Officer are responsible for making all approved changes. Any changes including any amendments to the Budget Resolution are to be accompanied by the additional documentation required to justify such modifications. The formal fiscal year budget shall be completed and presented to the Bureau of Indian Affairs Office no later than September 1 of each year.

Section 6 – Assignment of Authority and Responsibility

6.1 Authority and Responsibility of the Council

Except as otherwise provided in this Ordinance, neither the Council, nor any individual member of the Council, has the authority to deviate from this Ordinance, its procedures and any budgets adopted under it. Once the fiscal year budget is adopted, the authority of the Council is limited to budget oversight, except as otherwise provided herein. However, these limitations shall not prevent the Council from taking corrective action, when necessary, to ensure compliance with this Ordinance.

6.2 Authority and Responsibility of the Chairman

The Tribal Chairman acting as the Chief Executive Officer of the Tribe, shall be responsible for carrying out the terms of this Ordinance and any budgets adopted under it. The Chairman shall report to the Council on all requested or proposed changes or modifications to the approved fiscal year budget as well as any matter which might justify such changes or modifications. To aid in emergencies, the Chairman may, with the concurrence of the Chief Fiscal Officer, approve one modification a year to the approved fiscal year budget for each program, provided that such modification shall not exceed a maximum of \$1,000.00. The Chairman shall have the authority, including for disciplinary action, to take whatever actions are necessary and appropriate to carry out the terms of this Ordinance.

6.3 Authority and Responsibility of the Chief Fiscal Officer

Once the tribal budget is properly approved, the Chief Fiscal Officer (CFO) of the Tribe is directly responsible for ensuring that it is properly implemented and that any and all unauthorized expenditures are prohibited. In this regard, the CFO shall have full and complete authority and control to prevent any unauthorized expenditures of funds. The CFO shall immediately report any deviations from the approved fiscal year budget to the Tribal Chairman. The CFO shall assure that all programs and projects operated under any grants, contracts, and or any other funding arrangements are provided with monthly financial statements.

6.4 Authority and Responsibility of Managers/Directors

All program managers have the direct day to day responsibilities to assure that their programs are operated in compliance with the budgets approved under this Ordinance, as well as all other applicable laws and regulations. Program managers shall be directly responsible for obtaining monthly financial statements for their respective programs and projects and they are required to report immediately to the Tribal Chairman and CFO any deviations from their approved fiscal year budget. All managers are required to identify and report to the CFO, in writing, any matters that prevent compliance with their program's legally adopted budget. This information is to be reported before any steps are taken which are not in compliance with the approved budget. If a program manager learns that an action has been or is about to be taken which is not in compliance with the programs approved budget, the program manager becomes directly and immediately responsible for insuring that the problem is corrected, whether or not he or she is directed to do so by the CFO or Tribal Chairman. For the purposes of this Ordinance, the term "manager" shall include any director, manager, chief, or interim official who has direct control over the operations of a program and project, regardless of the time served in such position.

6.5 Limitations on Authority

Unless specifically authorized in this Ordinance, no person: whether elected; appointed; or employed under any position, department or entity of the Tribe, has the authority to deviate from this Ordinance. However, this Ordinance is not intended to, nor shall it be construed as preventing the Hoopa Valley Business Council, if acting in accordance with its overriding responsibility to the Hoopa Valley Tribe, from taking any necessary action to protect and safeguard the rights, resources, or welfare of the Tribe.

Section 7 – Regular and Emergency Budget Amendments

7.1 Budget Line Item Amendments

The Tribal Chairman, with concurrence of the CFO, may amend an approved budget up to a maximum of \$1,000.00 for each program per any fiscal year.

7.2 Regular Budget Amendments

If, after the Council has formally adopted a fiscal year budget, it becomes necessary to amend such budget and such funds have been identified, the Tribal Chairman and the CFO may propose recommended changes to the Council. The Council may adopt an amendment to a duly authorized fiscal year budget only after the issue has been noticed on the Council's agenda and it has been discussed and voted on at a regularly duly called Council meeting. All amendments must be considered in accordance with the provisions of this Ordinance.

7.3 Emergency Amendments

The Council retains the emergency power to reprogram any tribal funds if it is determined that a substantial threat exists to the Hoopa Valley Tribe, its resources, or its rights. If the Council takes such emergency action, it shall, within 30 days, call a special Council session

for the purpose of formally recording their action and for amending the Budget and Budget Authority Resolution where necessary to accommodate their changes. Nothing in this Ordinance shall require the Tribal Chairman, the Council, or any other tribal officials, acting during such an emergency, to publicly disclose any information that could adversely impact the legal and/or political standing of the Hoopa Valley Tribe.

7.4 Limitations on Amendments

No amendment to the Budget Authority Resolution, or to any authorized or proposed budget becomes valid until such funds are realized. In addition, no funds not contained in an approved fiscal year budget may be advanced nor expended, including grant matching fund obligation, unless and until an amendment to the budget is adopted in accordance with this Ordinance. The Special Consent process of the Tribal Council shall have no binding manner authority under this Ordinance and any actions enacted in that manner shall be considered null and void.

Section 8 – Enforcement

8.1 Council, Chairman, Chief Fiscal Officer

The Tribal Council, the Tribal Chairman, and the Chief Fiscal Officer are responsible for assuring the Tribe's compliance with this Ordinance and any resolutions, amendments, and budgets adopted under it. Nothing in this Ordinance is intended to place limitations on any lawful powers of the Tribal Council, tribal officials or tribal staff other than those limitations specifically delineated in this Ordinance.

8.2 Tribal Court

Any claims, challenges and alleged violations of this Ordinance that have not been satisfactorily resolved by the party or parties assigned that responsibility under this Ordinance shall be brought in the Hoopa Tribal Court. The Tribal Council, by adopting of this Ordinance, hereby agrees to waive any and all rights which prevent such action in the Hoopa Tribal Court. No other waivers are offered nor are intended.

8.3 Penalties

The Tribal Court shall have such authority to impose penalties for infractions under this Ordinance. These penalties are to be based on the circumstances surrounding and magnitude of the violation. Misuse of tribal funds for personal gain, intentional violations, fraud and embezzlement of tribal funds shall carry with them the strictest penalties available. Such penalties may include, but are not limited to: the remedies outlined in the Tribe's Personnel policies and procedures, the imposition of fines, and person and punitive damages, and the recommendation that additional charges be brought in other appropriate courts which have jurisdiction over such matters.

BE IT FURTHER RESOLVED: That if any part of this Ordinance is held to be invalid the remainder shall continue to be if full force and effect, and

BE IT FURTHER RESOLVED: That this Ordinance may not be amended or repealed unless that action is approved by a three-fourths (3/4) affirmative vote of the Hoopa Valley Business Council, taken at a regular duly called meeting of the Council, after and only after the proposed action was publicly announced for at least 2 weeks prior to the meeting and the item was properly noted on the Council's agenda.

C E R T I F I C A T I O N

I, the undersigned, as Chairman of the Hoopa Valley Business Council do hereby certify that the Hoopa Valley Business Council is composed of eight members of which 5 were present constituting a quorum at a Special meeting thereof; duly and regularly called, noticed, and convened, and held this 18th day of October, 1989; and that said resolution has not been rescinded or amended in any way.

DATED THIS 18TH DAY OF OCTOBER, 1989

DALE RISLING, CHAIRMAN
HOOPA VALLEY BUSINESS COUNCIL

ATTEST: _____
DEIRDRE R. YOUNG, EXECUTIVE SECRETARY
HOOPA VALLEY BUSINESS COUNCIL